

881.08 INTEREST, PENALTIES AND FEES.

(a) Interest. All taxes due from taxpayers and moneys withheld by employers, or required to be withheld by employers, and remaining unpaid, including estimated tax payments ultimately found to be due, shall bear interest, in addition to the unpaid tax or withholdings, at the rate of one and one-half percent per month, or any part thereof, until paid in full. Interest will be assessed on any tax not paid by the due date. Having an approved extension will not preclude the assessment of interest on any taxes paid late. Extensions, when requested and approved, extend only the time to file, not the time to pay any taxes due.

(b) Late Payment Penalties.

(1) In addition to any interest assessments, penalties based on the unpaid tax are imposed as follows:

A. For failure of a business or individual to pay taxes when due, other than taxes withheld, a penalty of one-half of one percent per month or fraction thereof, or 10%, whichever is greater.

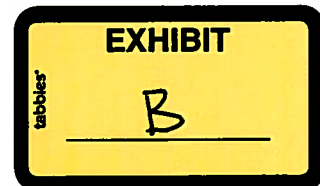
B. For failure to remit taxes withheld from employees, a penalty of 3% per month or fraction thereof, or 10%, whichever is greater.

C. On the excess of 90% of the actual tax over the amount paid on declaration of estimated tax where a declaration has not been filed estimating a tax liability in the same or greater amount than paid the previous year, or where a final return has not been filed and the total paid on or before the end of the month following the close of the taxable year, a penalty of 10% of the difference between 90% of the total tax for the year and the amount paid through withholdings or declarations is imposed.

D. Except in the case of fraud, the penalty shall not exceed 50% of the unpaid tax.

(2) In the case where an extension of time to file has been authorized by the Superintendent, penalty will be assessed from the date the return was due when the return is not filed within the authorized extended period.

(c) Late Filing Fees. In addition to any interest or penalties based on late or non-payment of taxes, a late filing fee of twenty-five dollars (\$25.00) shall be assessed for late or non-filing of complete returns by the due date. Such late filing fees shall be assessed whenever a complete return is not filed by the due date without regard to amounts of tax due. The fact that such delinquent tax returns may have no tax due shall not relieve the taxpayer or employer of the responsibility to file the return in a timely manner or cause an abatement or adjustment of late filing fees.



(d) Exceptions.

(1) Late payment penalties will not be assessed when an audit or correction of a return by the Income Tax Division staff results in additional tax due, if the return was originally and in good faith, timely filed and taxes due thereon timely paid and the additional taxes resulting from the audit or correction paid in full within 15 days of notification of the additional amount due. In the absence of fraud, there will be no assessment of a penalty or interest on any additional taxes due resulting from a Federal audit provided an amended City return is filed and the additional taxes due are paid in full within three months after the final determination of the federal tax liability.

(2) Late filing fees shall not be assessed in instances where a taxpayer has properly requested and been granted by the Tax Superintendent an extension of time to file and subsequently files a complete return by the extended due date.

A. Any taxes not paid by the original due date shall bear interest and penalty without regard for the extended due date.

B. Having an extension for Federal purposes shall have no bearing on City tax requirements and shall not cause an abatement of a penalty unless the proper extension of time to file the City return has been requested of and granted by the Superintendent.

(3) Late filing fees may be waived when an individual taxpayer is filing a City return for the first time due to being a new resident or becoming 18 years of age during that tax year.

A. Such waivers apply to individual taxpayers only and are not applicable to employers required to file withholding returns or to businesses required to file on net profits.

B. Late filing fee waivers will not be granted if the individual taxpayer has not complied with the filing requirements of the Income Tax Ordinance within six months after first being notified by the Superintendent of such requirement.

(4) Late filing fees will not be assessed when a nonresident is filing a return only for the purpose of obtaining a refund.

(5) Upon recommendation of the Superintendent, the Board of Adjudication may abate or adjust or compromise late payment penalties or interest or late filing fees when the taxpayer has shown good cause for the late filing or late payment of taxes when due. Upon appeal, the Board of Adjudication may, without recommendation of the Superintendent, abate or adjust or compromise late payment penalties, interest or late filing fees when it is deemed to be in the City's best interest to do so.

(6) Penalty and interest charges shall not be levied when the total of such charges amounts to less than five dollars (\$5.00).

(e) Violations by Employers. Any person required to withhold the tax who knowingly fails to withhold such tax, or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded or not withheld, or not paid over.

(Ord. 67-28. Passed 12-4-67; Ord. 86-11. Passed 11-3-86; Res. 90-R-29. Passed 10-1-90; Ord. 02-24. Passed 12-23-02.)